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**Human Rights Council**
**Twenty-ninth esession**
Agenda item 3
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-09415 (E)
*1509415*

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# Yemen the victim of world silence

Since the start of the Saudi aggressing and the continued blockade against the Yemeni population, humanitarian situation is deteriorating, effecting women, children, and the death numbers still on raise.

The aggression continues targeting commercial, residential and public sectors and most of the Yemeni towns, preventing people from moving from one place to another, cutting the food and medical supply to a large part of Yemen, reports confirmed of large displacement movement been recorded from cities like Sa'adh where families left their houses by force in difficult situation where they found themselves without homes.

Most of the attacks resulted in increase number victim and against citizens in (Sa'addah-AL-Hudidah-Hajah-Taiz-Sana'a),and it attacked hospitals ,mosques ,prisons ,telecom net ,electricity stations ,graveyards and historic castles in(Sa'addah ,Hajah ,Taiz ,Zabeed ,and Sana'a

At least 115 children have been killed and 172 injured in Yemen since the conflict began last month, according to the UN's agency for the welfare of children.

A spokesman from UNICEF said stated that at least 64 children who had died between March 26 and April 20 had been killed by the strikes.

According to Yemen center for human rights reported poisonous gas has been used in some areas around Sana'a and Saddah, which caused some people not able to breathe; and report of miscarriage Nogom neighborhood.

The illegal blockade is increasing people suffering despite of the international humanitarian assistants Yemen still needs basic antibiotics that is running low at AL-Thawrh hospital in Sana'a, the staff complaining that they haven't received any delivery for weeks.

The spiraling conflict has fuelled a humanitarian disaster in a country that was already suffering from shortages before the latest fighting erupted.

The UN's World Food Programme warned that a full 12 million people in the country did not know where their next meal was coming from, a 13 percent increase since the conflict escalated in late March.

The agency said it was delivering food to more than 100,000 people sheltered around the southern port city of Aden.

"But we are struggling to reach people because of deteriorating security," a WFP statement said, adding that dire fuel shortages were also hampering the response.

The food agency said it hoped to provide emergency food aid to 2.5 million people from May to July.

It was difficult enough before, but now there are just no words for how bad it's gotten," Marie Claire Feghali, International Committee of the Red Cross (ICRC), spokesperson.

"It's a catastrophe, a humanitarian catastrophe."

Fuel shortages were also preventing traders from moving food to market, the UN's World Food Programme said.

Fuel prices were as much as $10 per litre, and there was only enough to keep hospitals running for one more week and to prolong life-saving humanitarian operations for two weeks, the UN humanitarian agency OCHA said.

Aggression has also resulted the following

- Lack water and children suffer too much from lack of food and water.
- Food and material prices has increased or doubled, and many factories closed due to the absence of fuel.
- Nearly 12 million are unable to get their daily next meal .The blockade will lead to make the crisis worse because that the country import over 90% out of its needs of food from others, and experts warn that the complete crack in Yemen.
- We call the international humanitarian agencies to work together to assist with the humanitarian disaster which the Yemeni people facing and will get worsen if no urgent actions taken.
- Majority of hospitals and health centres the blood bank in AL-Thawrah hospital, the center of children medicine in Sa'awan, burning center in AL-Gomhori hospital, all hospitals and medical places in all republic's governateshas been bombard by the Saudi Air strike, leaving thousands with basic medicine or treatment, we stress the urgent need for medical and medicine supply.
- We call the Human Rights council to investigate the gas attacks which been reported in number of areas in Yemen and to send mission of inquiry to also investigate the alleged usage of illegal weapons by the Saudi aggression .

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**Human Rights Council**
**Twenty-ninth session**
Agenda item 7
**Human rights situation in Palestine and other occupied Arab territories**

# Written statement* submitted by the Defence for Children International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-09416 (E)
*1509416*

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## Israel's armed forces and grave violations of children's rights

For children living in the Gaza Strip, 2014 was a year that brought violence, fear, and loss. The Israeli military offensive that lasted 50 days between July 8 and August 26, dubbed *Operation Protective Edge*, killed 547 Palestinian children, 535 of them as a direct result of Israeli attacks.[1] Another 3,374 children suffered injuries in attacks, including over 1,000 children whose wounds rendered them permanently disabled.[2]

Investigations undertaken by Defense for Children International Palestine (DCIP) into Palestinian child fatalities during *Operation Protective Edge* found overwhelming and repeated evidence of international humanitarian law violations committed by Israeli forces. These included direct attacks on children, and indiscriminate and disproportionate attacks on civilian homes, schools, and residential neighborhoods.

Evidence and testimonies collected by DCIP's Gaza-based monitoring and documentation team showed that places that should have provided children with shelter and safety were not immune from attacks by Israeli forces. Missiles fired from Israeli drones and warplanes, artillery shelling, and shrapnel scattered by explosions killed children in their homes, on the street as they fled from attacks with their families, and as they sought shelter from the bombardment in schools.

Israel, the world's largest exporter of aerial drones, killed at least 164 children in drone attacks during its assault on Gaza.[3] In a number of incidents, evidence suggests that Israeli forces directly targeted children. In one such case, Rawya Joudeh, 40, and four of her five children were killed by an Israeli drone-fired missile as they played together in the family's yard in Tal al-Zatar, Jabalia refugee camp, North Gaza, on the afternoon of August 24. The children were aged between 6 and 14.

Just under half of the children who died during the offensive lost their lives in aerial attacks on residential buildings. Missiles dropped by Israeli warplanes killed 225 children while they were in their own homes or seeking shelter, often as they sat down to eat with their families, played, or slept.

No day more clearly demonstrates the indiscriminate and extreme violence that characterized the offensive than Sunday, July 20, which proved to be the deadliest day for children throughout the Israeli onslaught. A nighttime and ground assault on the residential Shuja'iyya neighborhood of Gaza City killed 27 children and injured at least 29 others.

On the same day in Khan Younis, in the southern Gaza Strip, 18 children from the Abu Jami family were killed when an Israeli warplane destroyed their home as they sat down for dinner. In total, 59 children across the Gaza Strip lost their lives on July 20.

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[1] DCIP, Operation Protective Edge: A War Waged on Gaza's Children (2015), http://www.dci-palestine.org/operation_protective_edge_a_war_waged_on_gaza_s_children.

[2] UN Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory (UN OCHA-OPT), *Situation Report*, Sep. 4, 2014, http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf; and UN OCHA-OPT, *Situation Report*, Aug. 8, 2014, http://www.ochaopt.org/documents/ocha_opt_sitrep_28_08_2014.pdf.

[3] DCIP, Operation Protective Edge: A War Waged on Gaza's Children (2015), http://www.dci-palestine.org/operation_protective_edge_a_war_waged_on_gaza_s_children; and Rania Khalek, *Sixty Percent of Global Drone Exports Come From Israel — New Data*, Electronic Intifada, Mar. 24, 2015, http://electronicintifada.net/blogs/rania-khalek/sixty-percent-global-drone-exports-come-israel-new-data.

Incidents such as these are not unprecedented. *Operation Protective Edge* was the sixth Israeli military offensive on Gaza in the past eight years, and raised the number of children killed in assaults on Gaza to 1,097 since 2006. Between December 2008 and January 2009 Israeli forces killed at least 353 children, as well as a further 33 children in November 2012.

Palestinian children have often paid the highest price in Israel's repeated military offensives, while also suffering from a man-made humanitarian crisis created by Israel's eight-year long blockade of Gaza. This has hindered any meaningful efforts toward implementing comprehensive protections for children living in the Gaza Strip. In a context where systemic impunity is the status quo, the need for justice and accountability is urgent.

In the West Bank, including East Jerusalem, the situation for children was deteriorating prior to *Operation Protective Edge*. Child fatalities and injuries significantly increased in 2014, mostly because Israeli forces used live ammunition against children. Israeli forces killed 11 Palestinian children with live ammunition in the occupied West Bank during 2014.[4] Only one incident resulted in both an investigation and an indictment as Israeli prosecutors brought manslaughter charges against the border police officer allegedly responsible for the death of Nadeem Nawara on May 15.[5] During the first three months of 2015, at least 30 children across the West Bank, including East Jerusalem, sustained gunshot wounds when Israeli forces used live ammunition to quash protests.[6]

While Israeli authorities have selectively opened their own investigations into several incidents occurring during the latest military offensive, previous experience has shown that Israeli authorities persistently fail to investigate alleged violations of its armed forces in accordance with international standards.

The Commission of Inquiry on the Gaza Conflict was established by the Human Rights Council to investigate all violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory. The Commission was charged with establishing "facts and circumstances of such violations and of the crimes perpetrated and to identify those responsible, to make recommendations, in particular on accountability measures, all with a view to avoiding and ending impunity and ensuring that those responsible are held accountable."[7]

To the extent that the Commission finds evidence of violations of international humanitarian law and international human rights law, serious and effective follow-up mechanisms must be endorsed by all members of the Human Rights Council in an effort to challenge and end impunity for violations.

In order to end impunity for perpetrators and advance the goal of protecting children during armed conflict, Defence for Children International urges all members of the Human Rights Council to:

- Demand that Israel end its prolonged military occupation of Palestinians living in the Occupied Palestinian Territory, and its eight-year siege on the Gaza Strip, a form of collective punishment prohibited under international law;

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[4] DCIP, *The Israeli military's pattern of lethal force against Palestinian children*, Jan. 28, 2015, http://www.dci-palestine.org/the_israeli_military_s_pattern_of_lethal_force_against_palestinian_children.

[5] DCIP, *New Forensic Architecture evidence identifies Nadeem Nawara's killer*, Nov. 20, 2014, http://www.dci-palestine.org/new_forensic_architecture_evidence_identifies_nadeem_nawara_s_killer.

[6] DCIP, *Israeli forces target children with live ammunition to quash protests*, Mar. 23, 2015, http://www.dci-palestine.org/israeli_forces_target_children_with_live_ammunition_to_quash_protests.

[7] H.R.C. Res. S-21/1, ¶ 13, U.N. Doc. A/HRC/RES/S-21/1 (Jul. 24, 2014), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/092/50/PDF/G1409250.pdf.

- Support resolutions that affirm any findings by the Commission of Inquiry on the 2014 Gaza Conflict involving violations of international humanitarian and international human rights law;

- Support recommendations regarding follow-up accountability measures made by the Commission of Inquiry on the 2014 Gaza Conflict concerning findings involving violations of international humanitarian law or international human rights law, including any requests to the Security Council for referral of specific cases to the International Criminal Court; and

- Call on the Secretary-General to include Israel's armed forces in the annex of his 14th Annual Report on Children and Armed Conflict for committing grave violations against children during armed conflict, specifically killing and maiming and attacks against schools.

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**Human Rights Council**
**Twenty-ninth session**
Agenda item 2
**Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General**

# Written statement* submitted by the Article 19 - International Centre Against Censorship, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2015]

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GE.15-09418 (E)
*1509418*

Please recycle

# Promoting freedom of expression, association and assembly to combat violence and discrimination on grounds of sexual orientation or gender identity

ARTICLE 19 welcomes the updated report of the High Commissioner for Human Rights, drawing attention to good practices for overcoming violence and discrimination on the basis of sexual orientation and gender identity.[1] The updated report demonstrates that freedom of expression, association and peaceful assembly are instrumental in overcoming violence and discrimination against people on the basis of their sexual orientation or gender identity.

This written statement highlights key cases and trends that ARTICLE 19 submitted to the High Commissioner for Human Rights to assist his preparation of the updated report, indicating good practice examples to protect the expression, association and assembly rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people:

Gender identity and expression
In several jurisdictions, the scope of the right to freedom of expression has been interpreted to include individuals' freedom to outwardly express their gender identity.

In November 2014, the Putrajaya Court of Appeal in **Malaysia** ruled a law criminalising any male person who "wears women's attire" as violating, *inter alia*, the right to freedom of expression as enshrined in the Constitution of Malaysia.[2] In April 2014, the Supreme Court of **India** ruled that the Constitution protects "one's right to expression of his self-identified gender. Self-identified gender can be expressed through dress, words, actions or behaviour or any other form."[3] In the **United States of America**, the First Amendment guarantee for freedom of expression have also be applied to challenge the application to transgender children of gender-specific dress codes in schools.[4]

Repeal of discriminatory laws
Good practices in promoting the freedom of expression rights of LGBTI people include the repeal of laws that expressly discriminate against persons on the basis of their sexual orientation or gender identity.

In June 2013, the **Venice Commission** issued its opinion on legislation prohibiting so-called "homosexual propaganda", finding that such prohibitions are incompatible with the European Convention on Human Rights and international human rights standards.[5] A number of these laws remain in force in Council of Europe Member States, notably in **Russia**, where legislation has been used to target newspapers,[6] and threatens the work of LGBT organisations and human rights defenders. However, in October 2013, the Parliament of **Moldova** repealed amendments to the Code of Administrative Offences that banned the promotion of non-traditional relationships.

Rejection of discriminatory draft laws
Several Parliaments have resisted initiatives to institute bans on "homosexual propaganda", in spite of popular or vocal support for them.

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[1] A/HRC/29/23, Update of report A/HRC/19/41 (on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity) - Report of the United Nations High Commissioner for Human Rights
[2] Justice prevails for transwomen in Negeri Sembilan after years of violence and discrimination, Justice For Sisters, 10 November 2014
[3] Ibid, at para. 62
[4] *Doe* v. *Yunits*, MA Sup. Ct. 2000
[5] Opinion on the issue of the prohibition of so-called 'propaganda of homosexuality' in the light of recent legislation in some member states of the Council of Europe, Venice Commission Opinion 707/2012, 18 June 2013, at paras 78 – 83
[6] Russia: Newspaper targeted under homosexual propaganda ban, 13 November 2013

In August 2013, **Armenian** legislators withdrew proposed amendments to the administrative offences law to ban "promoting" "non-traditional sexual relationships".[7] Two similar initiatives in **Ukraine** have not been adopted,[8] and in 2012 the **Hungarian** Parliament rejected two proposed discriminatory amendments to the Constitution.[9] While the shelving of such initiatives by domestic parliaments should be considered positive, this should be distinguished from good practice. The tabling of these laws, even if ultimately unsuccessful, is often accompanied by homophobic and transphobic rhetoric by politicians and the media.

Hate speech

Developments at the international and regional levels support a trend among States to recognise homophobic and transphobic hate speech as being as serious as racial, xenophobic or anti-Semitic hate speech.[10]

In 2013, ARTICLE 19 set out a two-pronged response to "hate speech" targeting LGBT people,[11] combining comprehensive positive policy measures to tackle the root causes of prejudice against LGBTI people with a coherent legal framework for prohibiting the advocacy of hatred against people on the basis of sexual orientation or gender identity that constitutes incitement to discrimination, hostility, or violence.

ARTICLE 19 maintains that States should primarily employ a range of positive measures for tackling prejudice and discrimination, with prohibitions considered a last resort.[12] In several jurisdictions, the scope of the right to freedom of expression has been found to be inclusive of robust and critical counter-speech to incidents of hate speech or other forms of discrimination. For example, in April 2014 the **European Court of Human Rights** upheld the right to robustly contest homophobia in public discourse.[13]

Media representation of LGBTI people

ARTICLE 19 has long argued that mass media have an ethical responsibility to promote equality and non-discrimination.[14] ARTICLE 19 has emphasised concrete steps that mass media entities can take in respect of their own constitutions to counter violence and discrimination against minorities, which would also apply to LGBTI people.[15]

There are many examples where press self-regulatory bodies[16] and national journalists' unions have adopted voluntary codes of conduct guidelines on covering LGBTI issues.[17] In other cases, civil society organisations have issued guidelines to media on accurate and appropriate terminology and approaches for covering issues about or affecting LGBTI people,[18] as well as guidance for journalists on challenging discriminatory discourse.[19] There are also positive examples of media collaborating with civil society to shine a spotlight in the media on neglected experiences of LGBTI people.[20]

Anonymous communication

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[7] ILGA - International Lesbian Gay Bisexual Trans and Intersex Associations, *State-sponsored homophobia: A world survey of laws: Criminalisation, protection and recognition of same-sex love 2014*, at page 19

[8] "Traditional Values? Attempts to censor sexuality. Homosexual propaganda bans, freedom of expression and equality", *op. cit.*, at pages 29 to 32

[9] *Ibid.*

[10] See, for example: the decision of the European Court of Human Rights in *Vejdeland and Others v. Sweden*, Application No. 1813/07, 9 February 2012; and Council of Europe Recommendation CM/Rec (2010) 5

[11] *Op. Cit.*, at page 22

[12] Illustrative examples of "good practice" in this regard are provided in detail in Responding to Hate Speech against LGBTI people, ARTICLE 19, October 2013

[13] European Court of Human Rights, *Mladina D.D. Ljubljana* v. *Slovenia*, Application No. 20981/10, 17 April 2014

[14] Responding to Hate Speech against LGBTI people, *op. cit.*, at page 23

[15] *Ibid.* See also: *Camden Principles, op.cit.*;

[16] See, for example: Editors' Code of Practice, Independent Press Standards Organisation, (United Kingdom), at Clause 12 "Discrimination"

[17] National Union of Journalists Guidelines on LGBT reporting, United Kingdom, 2 September 2014

[18] See, e.g. the Media Style Guide by Trans Media Watch, and other resources

[19] See, e.g. In Focus: Faith, LGBT People, & the Midterm Elections, GLAAD & the Human Rights Campaign, USA

[20] See, e.g. Stories of Our Lives" Sheds Light on Kenya's Gay Community, 6 September 2014

It has been recognised that privacy is an important condition for enabling free expression between like-minded people on the Internet.[21] This is especially important in countries with repressive legal or social environments for LGBTI people. National courts have upheld the importance of anonymity to the exercise of the right to freedom of expression, particularly for minorities and those with dissenting viewpoints.[22]

Robust legal protections for the right to privacy online, including the protection of anonymity online, should be considered good practice. In part, this is best achieved through an absence of regulation, for example, by governments not adopting requirements for the registration of Internet users, or for the activation of SIM cards.[23] Other good practices include requiring that investigative authorities obtain prior judicial authorisation in order to obtain basic subscriber information of Internet users from Internet Service Providers.[24]

Right to freedom of peaceful assembly

Since report 19/41, a number of countries including **Lesotho**[25] and **Cyprus**[26] have celebrated their first LGBTI pride events. In countries with recurring annual events, such as **Montenegro**, a marked reduction in violence has been observed, in part due to robust support given to such events by public officials and politicians from across different parties.[27] In **Serbia**, authorities in 2014 facilitated a pride parade where no violence was recorded, despite such events being banned in the country for the three previous years due to public safety concerns.[28] In some instances, pride events have proceeded following domestic court rulings overturning administrative decisions to block them.[29] In Europe, where States have failed to facilitate such assemblies, the **European Court of Human Rights** has consistently found violations of Article 11 of the Convention.[30]

Right to freedom of association

Obstacles to formation of associations that seek to protect the rights of LGBTI people are a particular concern in countries where attaining lawful status or legal personality for associations requires mandatory registration. In this regard, not requiring mandatory registration for associations, such as in **Sweden**, should be considered good practice.[31]

In **Botswana**, the High Court declared that the denial of registration of LEGABIBO (Lesbians, Gays and Bisexuals of Botswana) violated the applicants' rights to freedom of expression and freedom of peaceful assembly and of association, despite provisions criminalising homosexuality in the Penal Code.[32] In May 2015, the High Court of **Kenya** held that the NGO Board's refusal to register the National Gay and Lesbian Human Rights Commission breached the applicant's right to freedom of association.[33] The Court stressed that moral or religious beliefs cannot be a basis for limiting fundamental rights.[34]

In April 2010, the Supreme Court of the **Philippines** in *Ang Ladlad v. Commission on Elections* addressed the connection between the rights to freedom of association, expression and public participation. In overturning the decision of the Commission on Elections to deny LGBTI organisation *Ang Ladlad* registration as a political organisation, the

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[21] Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 17 April 2013, A/HRC/23/40.

[22] Supreme Court of the United States, *McIntyre* v. *Ohio Elections Commission*, 514 U.S. 344, 357 (1995)

[23] China Is Requiring People to Register Real Names for Some Internet Services, Wall Street Journal, 4 February 2015

[24] See, for example, the recent ruling of the Supreme Court of Canada in *R. v. Spencer*, 2014 SCC 43

[25] Small march is a big step for LGBTI in Lesotho, Open Society Initiative for Southern Africa, 31 May 2013

[26] Thousands march in Cyprus' first gay pride parade, seeking equal rights, Reuters, 31 May 2015

[27] Montenegro pride parade is a step toward human rights, SE Times, 26 November 2014

[28] Serbia Gay Pride march returns after four years, BBC News, 28 September 2014

[29] "Mayor confirmed that Vilnius Municipality will execute court order", Lithuania Tribune, 23 July 2013

[30] *Baczkowski and Others v. Poland*, Application No 1543/06, 3 May 2007; *Alekseyev v. Russia*, Application Nos. 4916/07, 25924/08, 14599/09, 21 October 2010; *Genderdoc-M v. Moldova*, Application No. 9106/06, 12 June 2012

[31] Joint Guidelines on Freedom of Association, Venice Commission and OSCE ODIHR, 17 December 2014

[32] Register LEGABIBO, Judge Rannowane orders Botswana Government, 15 November 2014

[33] *Eric Gitari v NGO Board and four others* [2015], Petition 440 of 2013.

[34] *Ibid.* at para. 121-122

Supreme Court emphasised that the Constitutional protections for freedom of expression limited the power of the majority to "ride roughshod over dissenting minorities."

Recommendations

In light of the adoption of Human Rights Council Resolution 27/32 and the update to report A/HRC/19/41, ARTICLE 19 encourages the Human Rights Council to:

- Institutionalise systematic attention to the human rights of LGBTI people, including their rights to freedom of expression, association, and assembly;
- Ensure constant monitoring on and regular reporting of the violation of the human rights of LGBTI people.

In particular, ARTICLE 19 urges Member States to:

- Repeal laws that limit the rights of transgender people to freely express their gender identity, including through choice of dress, speech or mannerism, and ensure their ability to safely and fully participate in public life.
- Repeal laws that discriminate against persons on the basis of their sexual orientation or gender identity, in particular so-called 'homosexual propaganda' bans;
- Enact positive and comprehensive legal and policy measures to combat hate speech against LGBTI people, guided by the framework put forward in the Rabat Plan of Action;
- Protect the right to privacy online, including the protection of anonymity online;
- Facilitate the right to freedom of assembly and protect the right to freedom of association for LGBTI people without discrimination.